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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/520,301	01/05/2005	Steffen Wuensch	3166	5073

7590  
Striker Striker & Stenby  
103 East Neck Road  
Huntington, NY 11743

03/08/2007

EXAMINER

NASH, BRIAN D

ART UNIT

PAPER NUMBER

3721

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/08/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

**Office Action Summary**

Application No.

10/520,301

Applicant(s)

WUENSCH, STEFFEN

Examiner

Brian Nash

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 05 January 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 January 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☒ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 1/5/05.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Examiner's Comments***

1. This action is in response to applicant's preliminary amendment received 1/5/2005. The pending claims are 1-10.

### ***Priority***

2. Acknowledgment is made of applicant's claim for foreign priority based on international search report of PCT/DE03/02668; however, a copy of the international search report has not been received.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:  
  
The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
4. Claims 2, 4-5 and 8-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 2 is not clear in that the claim language is functional and does not positively further limit the structure of the claimed apparatus. While features of an apparatus may be recited either structurally or functionally, claims directed to an apparatus must be distinguished from the prior art in terms of structure rather than function.

Claim 5 in its entirety is not clear, e.g. "horizontally longitudinally-divided" is a confusing phrase and it is also not clear (from either the specifications or looking at Fig. 1) how the suction connecting piece has an inlet opening of the cooling exhaust air. It is also not clear in claim 5 what the term "top" refers to, i.e. top of what?

In claims 9 and 10, element (44) is not shown in Fig. 1 and is therefore indefinite as to how it's referred to in claims 9 and 10. Element (46) of claim 9 is referred to as "cooling exhaust-air duct" and as "a connecting duct" – which is it? Appropriate correction is required.

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In claim 4 there is insufficient antecedent basis for the terminology "the outer wall". In claim 8 there is insufficient antecedent basis for the terminology "the pleated filter". Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-10 are rejected under 35 U.S.C. 102(b) as being anticipated by US 6,641,634 to Reich et al. Reich et al (including common inventorship and common assignee) discloses the same invention:

With respect to claims 1 and 2, a tool (10), with housing (12) including a motor (not numbered) and an cooling-air exhaust duct (20), a suction connecting piece (22) that is capable of guiding a chip-suctioning flow (27) and is connected to a dust box (21) having air holes (40).

With respect to claim 3, the tool (10) is capable of having air flow through (27) that performs both a chip-suctioning function and an exhaust cooling function, i.e. ambient air flows into the tool through the bottom of (16 – see Fig. 1) and in doing so the air flow both cools the motor and collects dust and debris as the flow continues along (see 27 in Fig. 1). There are multiple holes (40) through which the air can exit the tool and which are partitioned from each other.

With respect to claim 4, the dust box (21) is basically airtight except for its inlet flow (27) and exhaust flow (via holes 40). The holes (40) are located all over the box top surface including its back end.

With respect to claim 5, the suction-connecting piece (22) has an inlet opening for cooling exhaust air (as explained above with respect to claim 3) and which such cooling exhaust air is guided to flow and exit through the top of the dust box.

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With respect to claim 6, the dust box (21) includes a coupling branch (28,29 of Fig. 3) for connection with the suction connecting piece (22) and the structure for guiding both the chip suctioning flow and cooling exhaust air flow.

With respect to claims 7 and 8, the dust box (21) is detachable from the tool and has a detachable cover (23).

With respect to claims 9 and 10, the physical duct (20) is larger than the cross section that precedes it and smaller than the cross section that is downstream and therefore both the cooling air exhaust flow and the chip suctioning flow experience an enlarged funnel affect.

### ***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Refer to attachment (PTO-892) for notice of references cited and recommended for consideration based on their disclosure of limitations of the claimed invention.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian Nash whose telephone number is 571-272-4465. The examiner can normally be reached on Monday – Thursday from 8 a.m. to 6 p.m.

9. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi I. Rada can be reached at 571-272-4467. The official fax number for this Group is: 571-273-8300

10. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>.

Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

3/5/2007



Brian Nash